



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,321	01/09/2004	Shawn Gregory Abigail	ALC 3111	7258

7590 03/27/2006

KRAMER & AMADO, P.C.
Suite 240
1725 Duke Street
Alexandria, VA 22314

EXAMINER

LUDWIG, MATTHEW J

ART UNIT PAPER NUMBER

2178

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/753,321

Applicant(s)

ABIGAIL, SHAWN GREGORY

Examiner

Matthew J. Ludwig

Art Unit

2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/18/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the application filed January 9th, 2004.
2. Claims 1-22 are pending in the case. Claims 1 and 11 are independent claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 1 & 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**
4. **Claim 1, 2, 3, & 11 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.**

In reference to independent claim 1, the examiner believes the scope of the claim is unclear to a hypothetical person possessing the ordinary level of skill in the pertinent art. Although an essential purpose of the examination process is to determine whether or not the claims define an invention that is both novel and nonobvious over the prior art, another essential purpose of patent examination is to determine whether or not the claims are precise, clear, correct, and unambiguous. The claim language is generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The claim recites the phrase '*A method reporting*'. The language fails to accurately and distinctly

Art Unit: 2178

claim the subject matter of applicant's invention. Furthermore, the utilization of the phrase 'encapsulating each alarm token reported *in respect of* the reported alarm' leaves the Examiner confused by the vexatious nature of the language. The examiner is unable, based upon the presently claimed subject matter, to come up with an appropriate interpretation based upon the length of the independent claim and vexatious nature of the claim language. The claim seems to be directed to a method of reporting an alarm, however, the limitations fail to provide one of ordinary skill in the art with the essential steps for reporting alarms. The only known step found within the claim is the location of the alarms, however, there are no other steps provided in the claim that would allow a user to generate the reported alarm.

In reference to dependent claims 2 and 3, the utilization of the phrase 'XML tag specification *in respect of* the alarm' leaves the Examiner confused by the vexatious nature of the language.

The examiner is unable, based upon the presently claimed subject matter, to come up with an appropriate interpretation based upon the length of the independent claim and vexatious nature of the claim language.

In reference to independent claim 11, the examiner believes the scope of the claim is unclear to a hypothetical person possessing the ordinary level of skill in the pertinent art. Although an essential purpose of the examination process is to determine whether or not the claims define an invention that is both novel and nonobvious over the prior art, another essential purpose of patent examination is to determine whether or not the claims are precise, clear, correct, and unambiguous. The claim language is generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The

Art Unit: 2178

claim recites the phrase ‘identifying alarm tokens *constituent of the reported alarm*’, which is unclear to the examiner and would not have allowed one of ordinary skill in the art, a means of understanding what is being accomplished by parsing an alarm report. The claim seems to be directed to a method of parsing an alarm report, however, the limitations fail to provide one of ordinary skill in the art with the essential steps for parsing alarm reports. The only known step found within the claim is the identification of an alarm token. There are no other steps provided in the claim that would allow a user to generate the reported alarm.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. **The claimed invention is directed to non-statutory subject matter. Claims 1-22 are drawn to a computer implemented process that merely manipulates data or an abstract idea, or merely solves a mathematical problem without limitation to a practical application in the technological arts.**

In order for a claimed invention to accomplish a practical application, it must produce a “useful, concrete and tangible result” State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02 (see MPEP 2106.II.A). A practical application can be achieved through recitation of “a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skill artisan”, or “limited to a practical application within the technological arts” (MPEP 2106 IVB2(b)). Currently, claimed 1-

Art Unit: 2178

22 meets neither of these criteria. In order for the claimed process to produce a “useful, concrete and tangible” result, recitation of one or more of the following elements is suggested”

- The manipulation of data that represents a physical object or activity transformed from outside the computer (MPEP 2106 IVB2(b)(i)).
- A recitation of a physical transformations outside the computer, for example in the form of pre or post computer processing activity (MPEP 2106 IVB2(b)(i)).
- A direct recitation of a practical application in the technological arts (MPEP 2106 IVB2(b)(ii)).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu US Pat. Pub. 2003/0174162 filed 6/28/02) in view of Lindblad US Pat. Pub. Filed (6/13/02).**

In reference to independent claim 1, Wu teaches:

A clearance of an application to change its operating state. The second device or application may provide a notification (e.g. XML transmission) to the first device or application that it has changed its operating state as the result of the alarm or the clearance of an alarm (compare to “reporting an alarm report”). See page 6, [0061] through [0062]. The reference provides the XML for transmission of alarm. The file transmissions or other communications

Art Unit: 2178

from or between the SMLC and the NMS may be XML compliant or other platform independent protocol. However, the reference fails to explicitly state the reported alarm is encapsulated between a corresponding pair of XML tags. However, Lindblad provides XML document with data encapsulated within and transmits this data to a parser for identification of XML elements. It would have been obvious to one of ordinary skill in the art, having the teachings of Wu and Lindblad before him at the time the invention was made, to modify the XML alarm reporting methods taught by Wu to include the encapsulation and parsing methods of Lindblad, because it would have provided a strict validation means to the data being queried.

In reference to dependent claim 2, Wu teaches:

A clearance of an application to change its operating state. The second device or application may provide a notification (e.g. XML transmission) to the first device or application that it has changed its operating state as the result of the alarm or the clearance of an alarm (compare to “reporting an alarm report”). See page 6, [0061] through [0062]. The reference provides the XML for transmission of alarm. The file transmissions or other communications from or between the SMLC and the NMS may be XML compliant or other platform independent protocol. However, the reference fails to explicitly state the reported alarm is encapsulated between a corresponding pair of XML tags. However, Lindblad provides XML document with data encapsulated within and transmits this data to a parser for identification of XML elements. It would have been obvious to one of ordinary skill in the art, having the teachings of Wu and Lindblad before him at the time the invention was made, to modify the XML alarm reporting methods taught by Wu to include the encapsulation and parsing methods of Lindblad, because it would have provided a strict validation means to the data being queried.

In reference to dependent claim 3, Wu teaches:

Table 1 on page 7 & 8 discloses a plurality of XML tag specifications, which are received in response to the reported alarms.

In reference to dependent claim 4, Wu teaches:

The XML formatting language is utilizing by Wu in issuing the alarm report. See page 6, [0061 through 0064].

In reference to dependent claim 5, Wu teaches:

A representative interface schema for a file or other communications between the SMLC and the NMS is illustrated. The interface schema allows an alarm event report to be stored as an observation object and transmitted as a file using the XML protocol. See page 7, [0062] through [0063].

In reference to dependent claim 6, Wu teaches:

The state change event report sent from the SMLC to the NMS, the update request sent from the NMS to the SMLC. See page 6, [0062] through [0063].

In reference to dependent claim 7, Wu teaches:

A clearance of an application to change its operating state. The second device or application may provide a notification (e.g. XML transmission) to the first device or application that it has changed its operating state as the result of the alarm or the clearance of an alarm (compare to “reporting an alarm report”). See page 6, [0061] through [0062]. The reference provides the XML for transmission of alarm. The file transmissions or other communications from or between the SMLC and the NMS may be XML compliant or other platform independent protocol. However, the reference fails to explicitly state the reported alarm is encapsulated

Art Unit: 2178

between a corresponding pair of XML tags. However, Lindblad provides XML document with data encapsulated within and transmits this data to a parser for identification of XML elements. It would have been obvious to one of ordinary skill in the art, having the teachings of Wu and Lindblad before him at the time the invention was made, to modify the XML alarm reporting methods taught by Wu to include the encapsulation and parsing methods of Lindblad, because it would have provided a strict validation means to the data being queried.

In reference to dependent claim 8, 9, and 10, the claims recite similar limitations to those of independent claim 1, and therefore are rejected under similar rationale.

In reference to dependent claims 11-22, the claims recite similar limitations to those of independent claim 1-7, and therefore are rejected under similar rationale.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ternullo et al., US 2002/0191258 A1 filed (8/15/2001)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Ludwig whose telephone number is 571-272-4127.

The examiner can normally be reached on 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2178

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML

March 16, 2006

William S. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
3/12/2006